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7 Attorneys for Defendants
ALTA BATES SUMMIT MEDICAL CENTER;
8 RUSSELL D. STANTEN, M.D., LEIGH I.G.
IVERSON, M.D., STEVEN A. STANTEN, M.D., and
9 WILLIAM M. ISENBERG, M.D., Ph.D.

10 UNITED STATES DISTRICT COURT
11 NORTHERN DISTRICT OF CALIFORNIA
12

13 COYNESS L. ENNIX, JR., M.D., as an
individual and in his representative capacity
14 under Business & Professions Code Section
17200 et seq.,

15 Plaintiff,

16 v.

17 RUSSELL D. STANTEN, M.D., LEIGH I.G.
18 IVERSON, M.D., STEVEN A. STANTEN,
M.D., WILLIAM M. ISENBERG, M.D.,
19 Ph.D., ALTA BATES SUMMIT MEDICAL
CENTER and does 1 through 100,

20 Defendants.
21

CASE NO. C 07-2486 WHA

**DEFENDANTS' OBJECTION TO
PLAINTIFF'S OBJECTIONS TO
DEFENDANTS' EVIDENCE IN
SUPPORT OF SPECIAL MOTION
TO STRIKE**

DATE: August 16, 2007
TIME: 2:00 p.m.
DEPT: Ctrm. 9, 19th Flr.
JUDGE: Hon. William H. Alsup

COMPLAINT FILED: May 9, 2007
TRIAL DATE: No date set.

22 Defendants Alta Bates Summit Medical Center; Russell D. Stanten, M.D.;
23 Leigh I.G. Iverson, M.D.; Steven A. Stanten, M.D.; and William M. Isenberg, M.D., Ph.D.
24 ("Defendants") object to Plaintiff's Objections to Defendants' Evidence in Support of
25 Special Motion To Strike ("Plaintiff's Objections") filed late in the afternoon on August 10,
26 2007, on the grounds that they were not timely filed and were not filed with the prior
27 approval of the Court.
28

On June 1, 2007, Defendants filed a special motion to strike Plaintiff's complaint pursuant to California Code of Civil Procedure section 425.16. The court ordered briefing schedule for that motion required Plaintiff to file an opposition by July 12th and Defendants to file a reply by July 19th. The hearing on the special motion to strike is set for Thursday, August 16, 2007. Thus, Plaintiff's Objections were filed nearly one month after the opposition, three weeks after the reply and less than one week prior to the hearing date. This late filing not only violates the local rules of this Court but it also violates principles of fairness because Defendants are precluded from filing a written a response with the Court and because the late filing imposes additional preparatory burdens upon Defendants in the week prior to the hearing. See N.D. Cal. Civil L-R 7-3(d) (other than "relevant judicial opinion published after the date the opposition or reply was filed . . . no additional memoranda, papers or letters may be filed without prior Court approval."); *id.* at 7-3(a) (requiring opposition papers to be filed 21 days prior to the hearing); see also *Brae Asset Funding, L.P. v. Applied Fin., LLC*, 2006 U.S. Dist. LEXIS 60855, *13-*14 (N.D. Cal. Aug. 14, 2006) (Hon. W. Alsup) (striking late-filed objections to evidence under Civil Local Rule 7-3(d) because they violated the local rules and basic concepts of fairness). Therefore, Defendants respectfully request that the Court either strike Plaintiff's Objections from the record or disregard them in their entirety.

DATED: August 13, 2007

Respectfully submitted,

KAUFF McCLAIN & McGUIRE LLP

By: /S/
MATTHEW P. VANDALL

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CENTER; RUSSELL D. STANTEN, M.D.,
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